

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GREGORY ROBINSON,

Petitioner,

VS.

WAYNE CARPENTER, Warden,
Riverbend Maximum Security
Institution,

Respondent.

No. 14-cv-2630-SHL-tmp

ORDER GRANTING MOTION FOR LEAVE TO FILE A REPLY

On June 12, 2015, Petitioner Gregory Robinson, through counsel, filed a motion for leave to file a reply memorandum in support of his motion to apply *de novo* review. (See Electronic Case Filing (“ECF”) Nos. 29 & 35.) On June 19, 2015, Respondent Wayne Carpenter filed a response. (ECF No. 37.)

Petitioner argues that the motion to apply *de novo* review “presents complex issues on a variety of causes of action in this capital case” and that a reply memorandum will allow Petitioner to address the arguments raised by the State. (ECF No. 35 at 1.) He seeks an extension of time until June 23, 2015, to file a reply. (*Id.*)

Respondent asserts that further briefing is not required because the motion does not present complex issues and was supported by a 27 page memorandum. (*Id.* at 1.) He contends that Petitioner's request is unnecessary and unduly burdensome where there is no more binding Supreme Court precedent controlling the issues presented. (*Id.* at 1-2.) Respondent argues that *Johnson v. Williams*, 133 S. Ct. 1088 (2013), has warned against unnecessary federal habeas litigation. (*Id.* at 2.) He further argues that Petitioner should have provided specific evidence to

support his factual issues in the original motion, and further evidence would not be appropriate in a reply. (*Id.*)

The Court will not speculate on what information Petitioner seeks to provide in his reply. The application of *Johnson* for *de novo* review and the timing of Petitioner's motion for case management purposes present novel issues to the Court. Therefore, the Court finds that a reply is appropriate. The Court DIRECTS Petitioner to address the following in his reply:

- For case management purposes, explain why ruling on the motion for *de novo* review at this time is preferable to presenting these arguments in a dispositive motion after the close of discovery.
- Petitioner has asked the Court to make a determination of whether the state court's ruling on Claim 1 was contrary to clearly established Supreme Court precedent in order to obtain *de novo* review. Petitioner appears to present only one argument for habeas relief on Claim 1, specifically that the state court decision was contrary to clearly established Supreme Court precedent. (ECF No. 1 at 19-39.) What information other than the arguments in the Petition and the motion to apply *de novo* review, if any, needs to be presented to the Court for a merits ruling on this claim?

Petitioner's motion is GRANTED. Petitioner shall file a reply of no more than 5 pages not later than **June 29, 2015**. See Local Rule 7.2(c).

IT IS SO ORDERED, this 23rd day of June, 2015.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN
UNITED STATES DISTRICT JUDGE